

XONR8 Theater: Luis Martinez, Sofia Nelson, Rafael Rosas

Characters:

- Justin Brooks
- Marilyn Mulero
- College law students
- members of the press
- Interviewer

*Lights slowly fade in from a dark setting, revealing the interviewer and Mr Justin Brooks sitting across from each other at a desk CS. Images from website on display during introduction*

**Interviewer:** Hello Mr Brooks, We would like to interview you a little bit about you and the California innocence Project, and also more specifically about Marilyn Mulero.

**Justin Brooks:** Sure, I'm the director and founder of the Innocence Project, which I actually founded *because* of Marilyn Mulero.

**Interviewer:** Do you remember when you found out about the Mulero case?

**Justin Brooks:** About 20 years ago, I read a newspaper article about a woman on death row. The article said that she was sentenced to death on a plea bargain and that made no sense to me, whatsoever, like how can someone be sentenced to death on a plea bargain? **Plea bargain means you're negotiating for a lesser sentence, in exchange for you pleading guilty to giving up your right for a trial.**

**JB:** So I went up to the prison and I met up with Miss Mulero and she was 21 years old she was really really confused and didn't really understand what had happened to her. She told me she was innocent but her lawyer had told her the best thing to do was plea, to avoid the death penalty, and so I took her case on. I told my law students about it and four volunteered to work on the case with me. And we spent the next three or four years uncovering evidence about her innocence. *<As JB goes through this monologue, team of college law students shuffles through papers and laptops "uncovering" said evidence>*

**JB:** On the first day we were working on the case we went to the crime scene and stood where the one eyewitness was looking out her window, and we realized that it was absolutely impossible to even see the crime scene, and uh, we tracked down the trial lawyer, we found out he quit practicing law, and he was now a priest. actually he was studying to be a priest at the time, but now he's a priest. and so there was absolutely no investigation on her case. *<As JB begins this portion of his monologue, title from this link ([http://articles.chicagotribune.com/1998-11-25/news/9811250177\\_1\\_sentenced-parole-rival-gang-members](http://articles.chicagotribune.com/1998-11-25/news/9811250177_1_sentenced-parole-rival-gang-members)) is displayed on powerpoint>* I discovered who the real shooter was, she was a woman named Jaqueline Montaneze, who did both murders, and fortunately I was able to get her death sentence reversed by going to the court of appeal and arguing that her lawyer was totally incompetent in the way he did the sentencing process, but the court had never

allowed her to withdraw her guilty plea. so, i went back and got a new sentencing, and got a new jury to sentence her to life in prison. thats the only choice they have with someone on death row, they can only sentence someone to life, and they sentenced her to life and that was about sixteen years ago and I've been working on the case for 20 years.

**Interviewer:** So what exactly was the story the court used to prosecute and sentence Ms. Mulero?

**JB:** (missing beginning portions of transcription) the other guys roll the windows down and they said "

**Other guy:** hey, do you guys want to go down to the park and party?

**JB:** and they were like,

**Three girls in unison:** "yeah"

**JB:** so they all go to Humboldt Park which is a park on in the middle of a puerto rican neighborhood, its right on the border of the MLD and Latin King's territories. Jacki goes to a men's room with one of the guys and they're making out and he turns around to urinate and she pulls a 25 caliber pistol of the back of her pants and shoots him on the back of his head. One bullet on the back of his head, he goes down towards the toilet. Dead. She then walks outside and now there's two stories: one story is that she hands the gun to Marilyn, who then shoots the second guy. And thats the story that Marilyn confessed to and Jacki confessed to after they were interrogated all night long by multiple homicide detectives telling them they each better take credit for one of the shootings or they both could be executed. That's the confession story.

*Slight Pause, as if in reflection or disbelief*

**JB:** The real story, what happened was Jacki walked outside (and this is the story that is confirmed by Marilyn, Madeline and Jacki) and the other guy says

**Other Guy:** hey what happened to my homeboy?

**JB:** and she laughed and said

**Jaqueline Montaneze:** he's taking a shit",

**JB:** and then he turns around and she runs up behind him and BOOM pops him on the back of the head.

Marilyn and Madeline are freaked out, they're all wasted and smoking weed, they've been drinking and they all just ran. So the three girls run, and what happened is that the

investigation starts. In fact, Rodriguez was the girl who had the drug problem **on the street**, she got busted for cocaine possession that night, and the police had asked her if she knew about the shooting and she claimed that these girls were celebrating it. That led to the arrest of Marilyn, Jacki and Madeline, and they kept them up all night and they gave those statements.

There was only one eyewitness to the crime and that was **Jacki Serrano**, and Jacki claimed she was looking out the window of her apartment and she saw the tall girl, (and Jacki is a lot taller than Marilyn) the tall girl walk out of the bathroom and hand the gun to the short girl who shot the guy. Now when we finally tracked Jacki down she admitted that she hadn't seen it, she was the girlfriend of one of the victims. And if you \_\_\_\_\_ then you know her whole story is bullshit, she was 500 feet away, there is no way you could see the bathroom when the murder happened **inside her house (8:45)**

But, you know unfortunately what happened is Marilyn first went with a public defender (she had a really good public defender) but a lot of defendants unfortunately, since public defenders aren't real lawyers, she fired her excellent public defender, hired this guy with a little office in the neighborhood who has no idea what he's doing **(9:05) they give her (or him?)** a 10 thousand dollar retainer, and he just walks to the police **straight up to the \_\_\_\_\_ where she gets conspiracy with the death of the bathroom and she gets murder of the shooter for shooting outside the bathroom and so she gets sentenced to death for it.** That is the basic story.

*Through this entire monologue, as many of the topics that are being discussed that can be acted out should be. Meet with group about what specifically to act out.*

**I:** Was the fact that the eyewitness' location during the crime, the fact that the location did not give her a clear eye view was very evident **(9:39) which was evidently not possible to make something out**, was that ever brought up to the trial or the court?

**JB:** No because there never was a trial. See, that's the thing about the plea bargain, Marilyn never had a trial. If this case had a trial there is no way she would've been convicted because the eyewitness was just total nonsense

*Pause to show reflection*

**JB:** Even if she wasn't innocent I don't think this should happen in America. I don't think people should be sentenced to death without trial and it just bothers me as a lawyer that there's this little due process in America. It takes a lot to shock me after working on hundreds of homicide cases you know all the stuff I've done in my career. But this case still shocks me, that a 21 year old kid, who doesn't speak English fluently could be so railroaded through the system and just be so taken advantage of, it really just makes me ashamed to be honest, as an American, the whole thing. You know we try to hold ourselves up as having high ideals, how fair it is, how our courts are the best in the world, and all this stuff. But this case proves that isn't true.

**JB:** That's why I started the [California] Innocence Project; I started it for Marilyn Mulero.

**Interviewer:** After such a long time working on a case with no major successes after the removal of her death sentence, how do you stay motivated? How do you convince yourself that you are still making a difference?

**JB:** Well I mean, I'm lucky I get to walk at least one person out of prison a year, and I've walked people out of some horrible cases you know. I've walked Tim Atkins out of prison after 23 years because of the murder he got convicted of in Venice beach but didn't commit. I walked John Sol (?) out of a prison in Baker's Field after 21 years, Sam Marsh (?) after 21 years in San Diego where he got convicted on a shaken baby case. I've had a lot of big successes, Brian Banks, my client that went on to be an NFL football player after I exonerated him. So you know, those wins have kept me motivated and it's the reason I love this work but I'll tell ya', the losses really late on you. There are days that I don't know how much longer I can do it, because when I lose cases I'm the end of the line and I tell this story law students and to my lawyers you know that when we lose a case that person dies in prison, just know that there's no two ways about it, there's nobody left to take your case on. So it's hard because a lot of times we know someone's innocent and we just can't prove it, you know, or we just can't get all the evidence to court we need to prove it. But we just can't convince the judge of it or the prosecutors fighting us. These cases are very, very difficult. So yeah, I'd say all the wins really inspire me and if you go on our website (website) just see all the people we've walked out of prison., and all the great stories. But what you don't see up here is all the losses, there's a lot of them. You know where we can not prove the person innocent even if we know they are and you know it's tough, very tough.

**Interviewer:** how would you describe the emotions that you feel when you look back at your work and you say wow, look at all that I have accomplished?

**JB:** "Umm, I mean the problem... anyone who is a social activist or does this kind of work, the important thing, and I tell this to my law students and to my lawyers all the time, is you gotta focus on the case in front of you. You know, cause thats where you can make a difference. It's very hard to change the whole system, its, its overwhelming; the problem, and how big it is. So if I have looked back at the individuals that i've helped get out of prison and the people whose lives i've changed, it feels amazing. and thats what i try to do. I try to focus on those individuals and not, like, okay theres still a drop in the bucket in terms of changing, you know all the injustices in the world. So, i feel good about it. I think I've had a good career. I, I know a lot of my friends from law school who aren't that satisfied with their lives and just focused on making money. And I've never really focused on making money, I, you know drive my '95 jeep cherokee, \*laugh\*, dont worry about that so much. Um, so its incredibly rewarding. Last year I walked from san diego to sacramento to protest 12 of my clients who were in prison, and to try and get the governor to sign clemency petitions for them, and, it was a 712 mile walk, and during the walk all my old clients came out and walked with me, and family members of people ive got out of prison and it was pretty cool. You know really got to do a retrospective of

my career while walking 700 miles. uh... so im pretty happy with it. so far so good. i feel like i still have things to do though.

**Interviewer:** Wow. could you tell us more about the walk?

**JB:** Well, okay. Uh... I mean it was the hardest thing Ive done in my life and it was the best thing Ive done in my life. uh.. I was, was really frustrated with these cases, the 12 cases that if you go on the [innocenseproject.com](http://innocenseproject.com) you can see the 12 cases. And California is such a massive state, it is very hard to get the governor's attention on anything. and when you file clemency petitions, you know, they just... nobody even reads them. you know they get thrown into a box. cause they just receive so many. so i tried to think how can i get the governor's attention to try and get a meeting with him, about these cases and I came with the crazy idea one night, of all right, I'm gonna take these petitions and I'm gonna walk them from my office in san diego to his office in sacramento. and i went to work the next day thinking my staff was gonna talk me out of it, cause it was a crazy idea. and they didn't. they all said thats awesome you should do that. \*laugh\* so, it ended up becoming this whole big thing, it became like an education mission, and a whole thing. the whole way I was talking to the media, i was going to high schools, colleges, and anywhere i could speak about the cases and i was speaking about the cases. And it was 50 days just to walk that whole way, and uh, and it was amazing. it was a metaphor in the sense of, you know the struggle of these cases, and, and the willingness to go the distance for my clients, and, and um, a lot of them were in prison walking in circles all day while I was walking, they had solidarity with me, and you know their families all came out and walked with me, and by the time i got to sacramento i had 300 people, that were walking up to the governor's office. The media kept asking his office,

**Media:** are you gonna meet with this crazy ass law professor when he shows up?

**JB:** and i ended up getting a meeting with the governor's staff, cause the media kept calling.

**Interviewer:** you mentioned the three strikes law. could you share with us a little bit about what you feel about the three strikes law, if theres any reform that you believe is necessary to the law, and how you feel about its position in californian law.

**JB:** Well the the three strikes law is absolutely absurd. Its an embarrassment. When I'm asked overseas about the three strikes law, people say, well what is the scientific research behind your three strikes law, you know, whats its social science background, and that its safe to say that after three crimes you throw that person away. And I literally have to give the following answer: well, there's really no research behind it, but in the united states we have this sport called baseball, and in baseball you get three swings at a ball, and so politicians figured the general public would like that idea. okay, you get three strikes at a ball, you get three chances at crime. And, it makes no sense whatsoever. and most people think, that its gotta be violent crimes, but its serious or violent crimes. and serious crimes include drug crimes. So, we lock people up in prison for the rest of their life, on drug crimes. um, i

fortunately had the pleasure of waking two, three strikers out of prison over the last 5 years, and they weren't innocent cases, but i took them on because the crimes were so minor, it was just disgusting that they were in prison. one of my clients had served 17 years in prison for stealing a \$150 leafblower out of the back of a truck. the other had served 18 years for possession of drug paraphernalia. Thats not what civilized countries do. they don't lock people up for the rest of their lives for minor crimes. and, we've just, you know, politicians have been able to use this culture of fear in america to make everybody afraid into voting for laws that have the maximum penalty for everything. you know we've gotten to the point of, the prison officers union is the most powerful union in the state of california, everybody is interested in building prisons because theres money in it, and, we as taxpayers pay for it. its... everything is wrong about three strikes. everything. because its just based on a baseball analogy, its not based on anything more than that."

dont know how to end this, and i could not find the portion of the interview where he spoke about taking the case to the UN. we can fix those things as a group. this is just the first draft.